

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

_____)	
46 EXETER, LLC,)	
Plaintiff,)	
)	
v.)	C.A. No.:
)	
PENN-AMERICA INSURANCE,)	
COMPANY, and NAUTILUS)	
INSURANCE COMPANY,)	
Defendants.)	
_____)	

DEFENDANT, PENN-AMERICA INSURANCE COMPANY'S
NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§1332, 1441, and 1446, and Rule 81.1 of the Local Rules for the United States District Court for the District of Rhode Island, the defendant, Penn-America Insurance Company (hereinafter "Defendant" or "Penn-America"), through undersigned counsel, submits this Notice of Removal in the above-captioned action. As grounds therefore, the Defendant states as follows:

1. The plaintiff, 46 Exeter, LLC ("Plaintiff"), filed its Complaint in state court on March 12, 2024 in the Superior Court of Washington County, State of Rhode Island in a suit captioned *46 Exeter, LLC v. Penn-America Insurance Company and Nautilus Insurance Company*, Washington County Superior Court, Civil Action No. WC-2024-0125 ("State Court Action"). (See Complaint attached as **Exhibit A**.)

2. The Defendant received a copy of the Summons and plaintiff's Complaint on March 21, 2024.

3. With the exception of the Complaint, Penn-America has not received any other pleadings or orders in the State Court Action and Penn-America is not aware of any further pleadings filed in the State Court Action.

4. The gravamen of the Complaint is that the Plaintiff was allegedly wrongfully denied insurance coverage under the terms of Penn-America Commercial Lines Common Policy, bearing policy number PAV0352808 ("Penn-America Policy") for property damages, including water damage and/or wind damage, to its single-family rental property located at 46 Exeter Boulevard in Narragansett, Rhode Island ("Property"), which was allegedly sustained as a result of two storms occurring on January 8, 2024 into January 9, 2024 and/or January 12, 2024 into January 13, 2024.

5. According to the Complaint, Plaintiff demands judgment in excess of \$85,000, plus punitive damages, pursuant to R.I. Gen. Laws §9-1-33, as well as interest, costs, and attorney's fees. (*See* Exhibit A, p. 8.)

6. Thus, the Plaintiff is seeking damages in excess of \$75,000, exclusive of interests and costs, which satisfies the amount in controversy requirement to establish jurisdiction in the federal district court. *See* 28 U.S.C. §1332.

7. The Plaintiff is an entity incorporated in the State of Rhode Island, having a principal place of business located 730 Kingstown Road in South Kingstown, Rhode Island. (*See* Exhibit A, ¶1.)

8. The Defendant, Penn-America Insurance Company, is a Pennsylvania corporation with a principal place of business located at 3 Bala Plaza East, Suite 300 in Bala Cynwyd, Pennsylvania. (*See* Exhibit A, ¶2.)

9. The defendant, Nautilus Insurance Company is an Arizona corporation with a principal place of business located at 7233 E. Butherus Drive in Scottsdale, Arizona. (*See* Exhibit A, ¶3.)

10. Removal of this action from state court is therefore appropriate, pursuant to 28 U.S.C. §1332, because this case involves diversity of citizenship between the Plaintiff and Defendants sufficient to establish subject matter jurisdiction in federal district court and the amount in controversy exceeds the jurisdictional threshold of \$75,000.

11. Venue is proper in this district because Washington County Superior Court - the state court where the suit has been pending - is located in this federal court's district. Thus, venue is proper in this Court because it is the "district and vision embracing the place where such action is pending." 28 U.S.C. § 1441(a).

12. This removal is also timely because Penn-America has filed its Notice of Removal within thirty (30) days of service of Plaintiff's Complaint in the State Court Action. Pursuant to 28 U.S.C. §1446(b) and 28 U.S.C. §1446(c), this Notice of Removal is filed within thirty (30) days of the Defendant's receipt of the pleading through service, and less than a year after the commencement of the action.

13. Pursuant to 28 U.S.C. § 1441(a), copies of the Complaint and all other pleadings and orders served upon Penn-America in the State Court Action are being filed with this Court as the following exhibits to this Notice of Removal:

- a. Plaintiff's Complaint and Summonses attached as **Exhibit A**
- b. Proofs of Service attached as **Exhibit B**; and
- b. State Court Action Docket Sheet attached as **Exhibit C**.

14. In accordance with 28 U.S.C. §1446(d), written notice of the filing of this Notice of Removal will be given to all parties to this State Court Action and will be filed with the Clerk of Washington County Superior Court following the filing of this Notice.

15. The codefendant, Nautilus Insurance Company received service of the Summons and Complaint in the State Court Action on March 27, 2024 and has consented to this notice of removal, pursuant to 28 U.S.C. §1446(b)(2)(A). A Notice of Consent is also filed in support of this removal.

16. Pursuant to 28 U.S.C. §1446(a) and §1446(c) and Local Rule 81.1, within 14 days of filing this Notice of Removal, the Defendant will file with this Court certified copies of all records and proceedings in the State Court Action.

17. This Notice of Removal is signed, pursuant to Rule 11 of the Federal Rules of Civil Procedure, as required by 28 U.S.C. §1446(a).

18. In submitting this Notice of Removal, the Defendant reserves all rights and defenses to this action.

For the foregoing reasons, Penn-America Insurance Company hereby respectfully requests removal of this action from Washington County Superior Court to the U.S. District Court for the District of Rhode Island, pursuant to 28 U.S.C. §§1332, 1441, and 1446, and Rule 81.1 of the Local Rules for the United States District Court for the District of Rhode Island, allowing this Court to assume full jurisdiction over these proceedings as provided by law.

Respectfully submitted,

The Defendant,
Penn-America Insurance Company,
By Its Attorneys,



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Dated: April 10, 2024

CERTIFICATE OF SERVICE

I, Luana DiSarra Scavone, hereby certify that, on this 10th day of April 2024, I filed and served the foregoing document through the ECF system with copies to all registered participants and served a copy via email on following counsel of record:

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